

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**FREEDOM FROM RELIGION
FOUNDATION, INC.,
JANE DOE, and JOHN ROE**
Plaintiffs,

v.

**JUDGE WAYNE MACK in his
official capacity and
MONTGOMERY COUNTY, TEXAS**
Defendants.

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CASE NO. 4:17-cv-881

**PLAINTIFFS' RESPONSE AND JOINT NOTICE REGARDING
DEFENDANTS' EXPEDITED MOTION TO STAY**

Plaintiffs do not oppose Defendants' Expedited Motion to Stay (Doc. 78), except with regard to Defendants' June 8 expert designation deadline. Plaintiffs have concerns that applying a stay to Defendants' expert witness designation would impact equity in these proceedings and incentivize the weaponization of immunity claims in civil litigation in general. On May 14, Plaintiffs expressed their concerns to Defendants. Without accepting the validity of the concerns raised by Plaintiffs, Defendants agreed in response to a revised stay order that stays proceedings with the exception of Defendants' June 8 expert designation deadline.

The parties have agreed to request that the Court stay all district court proceedings until the Court has ruled on Defendants' Motion for Judgment on the Pleadings and until any interlocutory appeal of that decision, on judicial immunity grounds, has been finally decided by the court of appeals, subject to the exception that Defendants will timely file their expert report and expert designation by the deadline of June 8, 2018. This agreement is made without prejudice to, or waiver of, Defendants' previously stated position that judicial immunity is an immunity from suit that entitles a defendant to a stay of all proceedings until the immunity question is finally resolved.

A Proposed Order accompanies this Response. Based on the information above, the Parties respectfully request that this Proposed Order be entered in lieu of the proposed order that accompanied Defendants' Expedited Motion to Stay (Doc. 78-1).

DATE: May 17, 2018

Respectfully submitted,

/s/ Sam Grover

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CERTIFICATE OF SERVICE

I, Sam Grover, hereby certify that on this the 17th day of May, 2018, a true and correct copy of the foregoing document was transmitted using the CM/ECF system, which automatically sends notice and a copy of the filing to all counsel of record.

/s/ Sam Grover
Sam Grover